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P.O. Box 272400  
Fort Collins, Colorado 80527-2400

PATENT APPLICATION

ATTORNEY DOCKET NO. 200310650-1**IN THE  
UNITED STATES PATENT AND TRADEMARK OFFICE**Inventor(s): David Pettigrew  
Application No.: 10/628,902  
Filing Date: July 28, 2003Confirmation No.: 7436  
Examiner: DAYE, Chelcie L.  
Group Art Unit: 2161

Title: A System and a Method for Distinguishing Between Data and Print Files in an Archived File

Mail Stop Appeal Brief - Patents  
Commissioner For Patents  
PO Box 1450  
Alexandria, VA 22313-1450**TRANSMITTAL OF REPLY BRIEF**Transmitted herewith is the Reply Brief with respect to the Examiner's Answer mailed on January 11, 2008.

This Reply Brief is being filed pursuant to 37 CFR 1.193(b) within two months of the date of the Examiner's Answer.

(Note: Extensions of time are not allowed under 37 CFR 1.136(a))

(Note: Failure to file a Reply Brief will result in dismissal of the Appeal as to the claims made subject to an expressly stated new ground rejection.)

No fee is required for filing of this Reply Brief.

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Date of facsimile: March 10, 2008

Typed Name: Rebecca R. Schow

Signature: 

Respectfully submitted,

David Pettigrew

By 

Steven L. Nichols

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Reg No. : 40,326

Date : March 10, 2008

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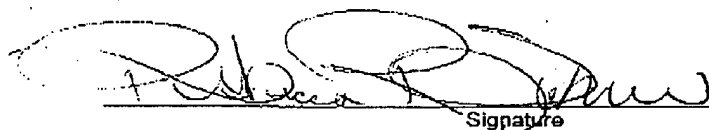
Application No.: 10/628,902

Attorney Docket No.: 200310650-1

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#### Transmitted, herewith, are the following documents:

1. Transmittal of Reply Brief with Duplicate Copy (2 pages)
2. Certificate of Transmission (1 page)
3. Reply Brief (12 pages)

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Patent Application of

David Pettigrew

Application No. 10/628,902

Filed: July 28, 2003

For: A System and a Method for  
Distinguishing Between Data and  
Print Files in an Archived File

Group Art Unit: 2161

Examiner: DAYE, Chelcie L.

Confirmation No.: 7436

**REPLY BRIEF**

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
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Sir:

This is a Reply Brief under Rule 41.41 (37 C.F.R.) in response to the Examiner's Answer of March 9, 2007 (the "Examiner's Answer" or the "Answer"). In Section 10, the Answer contains a response to some of the arguments made in Appellant's brief. Appellant now responds to the Examiner's Answer as follows.

200310650-1

10/628,902

(1) Claims 1, 19, 20, 23, 61 and 66 are patentable over Schmidt and Dockes:

Claim 1:

It is ironic that the Examiner's Answer begins by charging that Appellant's arguments rely on features not in the claims. (Answer, p. 12). As will be demonstrated below, it is actually the Answer that is blatantly ignoring what Appellant's claims clearly and explicitly recite.

Claim 1 recites:

A method of creating an archived file in a manner that allows an application to distinguish between one or more data files and one or more print files in said archived file, wherein said print files contain data used by said application to print visual labeling associated with data of one or more of said data files and said data files provide data to be transferred by said application to a recording medium associated with said visual labeling, said method comprising  
generating a manifest file; and  
including said manifest file in said archived file;  
wherein said manifest file distinguishes between one or more data files and one or more print files in said archived file and indicates to said application a file location within said archived file associated with said one or more data files and a file location associated with said one or more print files.

Quoting claim 1, a "print file" is defined in claim 1 as "data used by said application to print visual labeling associated with data of one or more of said data files." Any attempt in the Answer to construe a "print file" differently is contrary to the express language of claim 1.

A "data file" is defined in claim 1 as "data to be transferred by said application to a recording medium associated with said visual labeling."

The claimed "manifest file" "distinguishes between one or more data files and one or more print files in said archived file." This is not merely distinguishing between any sets or types of files, but distinguishing between print and data files as those files types are defined in claim 1.

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200310650-1

**MAR 10 2008**

10/628,902

The Answer's response to claim 1 amounts to nothing more than an unsupported attempt to redefine the language of claim 1 so as to twist it into the scope of the cited prior art, where such an interpretation is utterly unreasonable. The Answer attempts to argue that "the features upon which applicant relies (i.e., the files being electronically placed in a common archived file and distinguished between the audio files and labeling files) are not recited in the rejected claims." (Answer, p. 12) (emphasis in original). In response, Appellant will merely quote language from claim 1, "said manifest file distinguishes between one or more data files and one or more print files in said archived file," where a "print file" is "data used by said application to print visual *labeling* associated with data of one or more of said data files." (Emphasis added).

This subject matter, when construed as explicitly defined in claim 1, is clearly not taught or suggested by the prior art of record.

The Answer quotes Schmidt extensively as teaching "a single Manifest file 412 that is always named MANIFEST.MF. The MANIFEST.MF file contains arbitrary information about files in the archive, such as their encoding or language." (Answer, p. 12, quoting Schmidt at cols. 8-9 lines 54-20). Thus, Schmidt, as cited in the Answer, teaches a manifest file that "contains arbitrary information about files in the archive, such as their encoding or language." (*Id.*).

In contrast, Appellant's claim 1 recites "said manifest file distinguishes between one or more data files and one or more print files in said archived file and indicates to said application a file location within said archived file associated with said one or more data files and a file location associated with said one or more print files." The Answer utterly fails to indicate how or where the cited prior art teaches this subject matter. The quotation from Schmidt given does not address a manifest file that "distinguishes between one or more data

200310650-1

10/628,902

files and one or more print files in said archived file.” Indicating the encoding, language or even the type of file does not distinguish it as a data file v. a print file as those terms are explicitly defined in Appellant’s claim 1. Thus, Schmidt, as cited in the Answer, does not teach, suggest or cover Appellant’s claimed subject matter.

As Appellant has noted before, Dockes teaches a “system and method for production of customized compact discs on demand.” (Dockes, abstract). According to Dockes, a user selects songs to be recorded on a disc. The songs are then recorded on an audio CD. The system also includes “packaging means for labeling the blank CD recorded by the writing means and inserting same in a box for shipment.” (*Id.*). *However, Dockes does not ever teach or suggest that audio files and labeling files are ever placed in a common archived file.* Consequently, Dockes cannot teach or suggest the claimed manifest file that distinguishes between data files and print files *in an archived file*.

Thus, the conclusion in the Answer that Schmidt and Dockes somehow fully disclose all the features of claim 1 is both unreasonable and without logical support on the record. (Answer, p. 15). Consequently, the combination of Schmidt and Dockes cannot teach or suggest the claimed “manifest file [that] distinguishes between one or more data files and one or more print files in said archived file and indicates to said application a file location within said archived file associated with said one or more data files and a file location associated with said one or more print files.” This subject matter is not found in either Schmidt or Dockes.

Under the analysis required by *Graham v. John Deere*, 383 U.S. 1 (1966) to support a rejection under § 103, the scope and content of the prior art must first be determined, followed by an assessment of the differences between the prior art and the claim at issue in view of the ordinary skill in the art. In the present case, the scope and content of the prior art,

200310650-1

10/628,902

as evidenced by Schmidt and Dockes, clearly did not include the claimed method including generating a "manifest file [that] distinguishes between one or more data files and one or more print files in said archived file and indicates to said application a file location within said archived file associated with said one or more data files and a file location associated with said one or more print files." This concept appears to be entirely beyond the scope of the cited prior art.

This difference between the cited prior art and the claimed subject matter is significant because the claimed method addresses an issue, distinguishing between data and print files in an archived file, that was apparently not recognized in the cited prior art. Moreover, the claimed method provide an advantageous solution to this issue that was not available in the cited prior art.

Consequently, Schmidt and Dockes will not support a rejection of claim 1 under 35 U.S.C. § 103(a) and *Graham*. For at least these reasons, the rejection of claim 1 and its dependent claims should not be sustained.

Claim 23:

Claim 23 recites:

A method of creating an archived file in a manner that allows an application to distinguish between one or more data files and one or more print files in said archived file, wherein said print files contain data used by said application to print visual labeling associated with data of one or more of said data files and said data files provide data to be transferred by said application to a recording medium associated with said visual labeling, said method comprising:

- using an enforced directory structure in said archived file;
- wherein said enforced directory structure separates said one or more data files and one or more print files in said archived file and indicates to said application a file location associated with said one or more data files and a file location associated with said one or more print files.



200310650-1

10/628,902

As demonstrated above, Schmidt fails to teach any mechanism that distinguishes specifically between data files and print files in an archived file as claimed. Dockes fails to even teach or suggest data and print files stored in a common archived file. Neither reference teaches or suggests the claimed enforced directory in an archived file that "separates said one or more data files and one or more print files in said archived file and indicates to said application a file location associated with said one or more data files and a file location associated with said one or more print files."

Despite the fact that an "enforced director structure" is different than the manifest file discussed above and is independently novel and patentable, the Answer does not address any arguments to this subject matter. Rather, with respect to claim 23, the Answer merely refers again to the ineffective arguments against claim 1 that have already been addressed above. (Answer, p. 16)

Again, under the analysis required by *Graham v. John Deere*, 383 U.S. 1 (1966) to support a rejection under § 103, the scope and content of the prior art must first be determined, followed by an assessment of the differences between the prior art and the claim at issue in view of the ordinary skill in the art. In the present case, the scope and content of the prior art, as evidenced by Schmidt and Dockes, clearly did not include the claimed method including an "enforced directory structure [that] separates said one or more data files and one or more print files in said archived file and indicates to said application a file location associated with said one or more data files and a file location associated with said one or more print files." This concept appears to be entirely beyond the scope of the cited prior art.

This difference between the cited prior art and the claimed subject matter is significant because the claimed method addresses an issue, distinguishing between data and print files in an archived file, that was apparently not recognized in the cited prior art. Moreover, the

200310650-1

10/628,902

claimed method provide an advantageous solution to this issue that was apparently not available in the cited prior art.

Consequently, Schmidt and Dockes will not support a rejection of claim 23 under 35 U.S.C. § 103(a) and *Graham*. For at least these reasons, the rejection of claim 23 and its dependent claims should not be sustained.

Claim 61:

Claim 61 recites:

A system for creating an archived file in a manner that allows an application to automatically distinguish between one or more data files and one or more print files in said archived file, wherein said print files contain data used by said application to print visual labeling associated with data of one or more of said data files and said data files provide data to be transferred by said application to a recording medium associated with said visual labeling, said system comprising:

means for generating a manifest file, said manifest file distinguishing between one or more data files and one or more print files in said archived file and indicating to said application a file location associated with said one or more data files and with said one or more print files; and

means for including said manifest file in said archived file.

As demonstrated above in the discussion of claim 1, Schmidt and Dockes fail to teach or suggest "means for generating a manifest file, said manifest file distinguishing between one or more data files and one or more print files in said archived file and indicating to said application a file location associated with said one or more data files and with said one or more print files."

Again, the Answer does not specifically address the language of claim 61, but merely refers to the ineffective arguments against claim 1 that have already been addressed above.

(Answer, p. 16)

200310650-1

10/628,902

Consequently, the subject matter of claim 61 is beyond the scope and content of the cited prior art and provides advantages unrecognized in the cited prior art. For at least these reasons, the rejection of claim 61 and its dependent claims should not be sustained.

Claim 67:

Claim 67 recites:

A processor readable medium having instructions thereon for:  
generating an archived file comprising one or more print files and one or more data files, wherein said print files contain data used to print visual labeling associated with data of one or more of said data files and said data files provide data to be transferred to a recording medium associated with said visual labeling;  
generating a manifest file; and  
including said manifest file in said archived file;  
wherein said manifest file distinguishes between one or more data files and one or more print files in said archived file and indicates to an application a file location within said archived file associated with one or more data files and a file location associated with one or more print files.

As demonstrated above, Schmidt and Dockes fail to teach or suggest the claimed manifest file "wherein said manifest file distinguishes between one or more data files and one or more print files in said archived file and indicates to an application a file location within said archived file associated with one or more data files and a file location associated with one or more print files."

Again, the Answer does not specifically address the language of claim 67, but merely refers to the ineffective arguments against claim 1 that have already been addressed above.  
(Answer, p. 16)

Consequently, the subject matter of claim 67 is beyond the scope and content of the cited prior art and provides advantages unrecognized in the cited prior art. For at least these reasons, the rejection of claim 67 and its dependent claims should not be sustained.

200310650-1

10/628,902

Claim 19:

Claim 19 recites "including said manifest file in a root directory of said archived file."

However, as demonstrated above, Schmidt and Dockes fail to teach or suggest the claimed manifest file that distinguishes between print and data files as defined by the Appellant's claim 1. Consequently, the cited prior art cannot teach or suggest that such a file is located in a root directory of the corresponding archived file. For at least this additional reason, the rejection of claim 19 should not be sustained.

Claim 20:

Claim 20 recites:

including said manifest file in any directory of said archived file; and  
including a boot file in a root directory of said archived file, said boot file  
indicating a path of said manifest file in said archived file;  
wherein said application is configured to recognize and read said boot file.

As demonstrated above, the cited prior art fails to teach or suggest the claimed manifest file. Consequently, the cited prior art cannot teach or suggest the claimed boot file that indicates a path to the manifest file in the archived file.

Additionally, Appellant's specification defines a "boot file" as follows. "If the manifest file is located in a directory other than the root directory, a "boot" file in the root directory may be used to point to the location of the manifest file." (Appellant's specification, paragraph 0060). This defining characteristic of a boot file is explicitly recited in claim 1, "said boot file indicating a path of said manifest file in said archived file." Thus, a "boot file" is not any arbitrary file, such an interpretation would make claim 20 unintelligible. (Answer, p. 18).

200310650-1

10/628,902

In contrast to claim 20, the Answer utterly fails to indicate how or where the cited prior art teaches the claimed boot file that is "in a root directory of said archived file, said boot file indicating a path of said manifest file in said archived file." This subject matter appears to be entirely beyond the scope and content of the cited prior art. For at least these additional reasons, the rejection of claim 20 should not be sustained.

(2) Claims 2-18, 21, 22, 24, 35 and 62-65 are patentable Schmidt, Dockes and Van Valer:

Claim 2, 24 and 62:

Claim 2 recites:

extracting files from said archived file with said application, said files including said one or more data files, said one or more print files, and said manifest file;

burning said one or more data files onto an optical disc; and  
printing content corresponding to said one or more print files.

Claims 24 and 62 recites similar subject matter.

In contrast, as demonstrated above, the cited prior art fails to teach or suggest the claimed archived file including data files, print files and a manifest file that distinguishes between the data and print files. Consequently, the cited prior art cannot teach or suggest the subject matter of claims 2, 24 and 62.

Additionally, the Office has cited to Van Valer as teaching burning data files to an optical disc and printing content corresponding to those files. (Action of 6/25/07, p. 6). However, Van Valer teaches such subject matter without any reference or connection to the claimed archived file. Consequently, the subject matter of claims 2, 24 and 62 is entirely outside the scope and content of the cited prior art. For at least this additional reason, the cited prior art cannot teach or suggest the subject matter of claims 2, 24 and 62, and the rejection of these claims and their respective dependent claims should not be sustained.

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Claim 8, 9, 30 and 31:

Claim 8 recites "wherein said one or more data files comprise a disk image file."

Claim 30 recites similar subject matter. This subject matter is not taught or suggested by the cited prior art. Appellant's specification defines a "disk image file" as follows. "A disk image file (also referred to as a disk image) is an exact binary copy of an entire disk."

In contrast, the Answer cites Van Valer in this regard as teaching "selecting pictures from among many online albums, putting copies of those selected image into a new album that will be archived on a CD, and indexing its content using any of the other previously-described options." (Answer, p. 20, citing Van Valer at paragraph 0024). It is entirely unclear how the Examiner thinks this teaching from Van Valer relates to an exact binary copy of an entire disk which is stored as data file in an archive file along with the manifest and print files as defined and claimed by the Appellant.

Thus, the subject matter of claims 8 and 30 is clearly outside the scope and content of the cited prior art. For at least this additional reason, the rejection of claims 8, 9, 30 and 31 should not be sustained.

Claim 13 and 64:

Claim 13 recites "generating said manifest file in Extensible Markup Language (XML)." Claim 64 recites similar subject matter.

As demonstrated above, the concept of the claimed manifest file is entirely outside the scope and content of the cited prior art. For at least this reason, the cited prior art cannot teaching or suggest the subject matter of claims 13 and 64.

200310650-1

10/628,902

Additionally, the Answer fails to indicate any portion of any prior art reference that suggests that a manifest file, as defined and claimed by Appellant, is generated in XML. (Answer, p. 21). For at least this additional reason, the rejection of claims 13 and 64 should not be sustained.

In view of the foregoing, it is submitted that the final rejection of the pending claims is improper and should not be sustained. Therefore, a reversal of the Rejection of June 25, 2007 is respectfully requested.

Respectfully submitted,

DATE: March 10, 2008



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